

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LINDSAY O'BRIEN QUARRIE,

Plaintiff,

v.

Civ. No. 17-350 MV/GBW

STEPHEN WELLS, *et al.*,

Defendants.

ORDER DENYING MOTION TO WITHDRAW

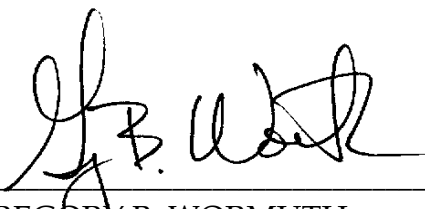
THIS MATTER is before the Court on Plaintiff's Motion for Leave to Withdraw Motion for Leave to Amend Second Amended Complaint. *Doc. 117*. Because the motion that Plaintiff seeks to withdraw has already been ruled on, as explained below, the instant Motion to Withdraw is moot.

Plaintiff filed his Motion for Leave to Amend Second Amended Complaint on March 1, 2019. *Doc. 94*. The motion was fully briefed on March 29, 2019 (*docs. 100, 101*), and the Magistrate Judge issued his Proposed Findings and Recommended Disposition ("PFRD") on April 3, 2019 (*doc. 104*). Plaintiff filed his Objections to the PFRD on April 17, 2019. *Doc. 110*. It was not until May 5, 2019, over a month after issuance of the PFRD, that Plaintiff moved to withdraw his original Motion to Amend, without any showing of good cause for the delay. *See doc. 117*.

Withdrawal of a document by a party “requires consent of all other parties or approval of the Court.” D.N.M.LR-Civ. 7.7. Defendants have not consented to Plaintiff’s Motion to Withdraw. *See doc. 117* at 1. Particularly in light of the already-filed PFRD, therefore, it was within the Court’s discretion to deny the motion. *See Ross v. Balderas*, 2017 WL 3671578, at *1 (“[T]he court declines to approve Defendant[s] attempt to withdraw the motions that were the basis of the magistrate judge’s proposed findings and disposition and Defendant[s] subsequent objections. Defendant [] has had his ruling and cannot erase it.”).

The Court denied Plaintiff’s Motion to Amend (*doc. 94*) and adopted the Magistrate Judge’s findings (*doc. 104*) on May 28, 2019, thereby implicitly denying Plaintiff’s Motion to Withdraw (*doc. 117*). *See doc. 129*. Because the motion that Plaintiff seeks to withdraw has been decided by the Court, Plaintiff’s Motion to Withdraw (*doc. 117*) is hereby DENIED AS MOOT.

IT IS SO ORDERED.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE